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April 1, 2025

Hon. Magistrate Judge Miroslav Lovric
U.S. District Court Northern District Of New York
15 Henry Street
Binghamton, NY 13901

RE: Happy Hour Drinks Company, Inc. v. Can Man, LLC et al.
Case No. 3:24-cv-00047-TJM-ML

Your Honor:

We represent the plaintiff Happy Hour Drinks Company, Inc., in the above action. This status report is submitted on behalf of the Plaintiff pursuant to the Court's direction. (ECF No. 72).

The Parties are making substantial progress in diligently completing discovery in this matter. To date, the following depositions have taken place: Matthew Novian of Happy Hour (12/11/24), Andrew Zimmerman formerly of Defendants (12/16/24, 2/4/25, 2/5/25), Anthony Ciocci formerly of Defendants (2/5/25), Matthew Morton of Happy Hour (2/12/25), Tyler Mondoc formerly of Defendants (3/26/25, 3/27/25).

Additionally, the Parties are scheduling the 30(b)(6) depositions for each of the two Defendants. The tentative dates are still being decided, but they are anticipated to occur in or around April 10-17.

Plaintiff responded to Defendants' second set of discovery requests on 2/28/25. Defendants' counsel sent a meet and confer letter on March 26, 2025 regarding an RFP requesting documents reflecting additional witness contact information. Although Plaintiff maintains that the RFP response was accurate and that the RFP should have been framed as an interrogatory, Plaintiff intends to provide the requested information. The Parties are nearly complete with written discovery. Plaintiff may serve one additional set of written discovery to target areas not yet explored.

The District Court has yet to rule on Defendants' appeal (ECF No. 67) and has stayed Defendant's compliance deadline until the motion is decided (ECF No. 75). Plaintiff's expert will require these financial documents in order to complete the expert report.

In light of the fast-approaching deadlines in this matter, particularly the deadline for plaintiffs to make expert disclosures (4/15/25; *see* ECF No. 72), Plaintiffs respectfully request an additional modification of the Court's schedule by 60 days for good cause. *Kassim v. City of Schenectady*, 221 F.R.D. 363, 366 (S.D.N.Y. 2003) (internal citation marks and citation omitted) ("Good cause may be established if the moving party can demonstrate that the deadlines cannot reasonably be met despite the diligence of the party needing the extension"). Despite Plaintiff's diligence in taking the above-referenced depositions and pursuing further written discovery from Defendants, including by way of motion to compel, Plaintiff cannot reasonably complete their initial expert disclosures by April 15, 2025. The outstanding depositions and compelled discovery is necessary for Plaintiff's expert evaluation of liability and damages. Defendants will suffer no prejudice with an extension. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.1992) ("Although the existence or degree of prejudice to the party opposing the modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for seeking modification. If that party was not diligent, the inquiry should end.")

Additionally, Defendant's counsel has indicated that he will not oppose this request.

Accordingly, for good cause appearing, Plaintiff respectfully requests a modification to the Court's scheduling order (ECF No. 72) by an additional 60 days on all deadlines. This would change the deadlines to:

- Plaintiff Expert Disclosure Deadline is 6/13/2025
- Defendants Expert Disclosure Deadline is 7/15/2025
- Rebuttal Expert Disclosure Deadline is 7/29/2025
- All Discovery, including all depositions, shall be completed by 8/26/2025
- Dispositive motions shall be filed by 9/26/2025.

We thank the Court for its attention to this matter.

Respectfully,



JOSEPH A. CHURGIN
JAC/mc
cc: Eric Kurtz, Esq.
Happy Hour Drinks Company, Inc.